

United States District Court for the
Southern District of New York

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UNITED STATES OF AMERICA, :
Plaintiff, :
v. :
LEBANESE CANADIAN BANK SAL, ELLISSA :
HOLDING COMPANY, HASSANAYASH EXCHANGE :
COMPANY, CYBAMAR SWISS GMBH, LLC, STE :
NOMEKO SARL, STE MARCO SARL, and THE :
SALHAB TRAVEL AGENCY, :
Defendants, :
ALL ASSETS OF LEBANESE CANADIAN BANK : 11 CIV 9186 (PAE)
SAL OR ASSETS TRACEABLE THERETO; ALL :
ASSETS OF ELLISSA HOLDING COMPANY; ALL :
ASSETS OF HASSAN AYASH EXCHANGE :
COMPANY; ALL ASSETS OF CYBAMAR SWISS :
GMBH, LLC, STE MARCO SARL, STE NOMEKO :
SARL, AND THE SALHAB TRAVEL AGENCY, :
INCLUDING BUT NOT LIMITED TO ALL FUNDS :
ON DEPOSIT IN THE BANK ACCOUNTS AS :
PARTICULARLY DESCRIBED IN SCHEDULE A; :
and ALL ASSETS OF 30 USED CAR BUYERS :
IN THE UNITED STATES LISTED IN :
SCHEDULE A, INCLUDING BUT NOT LIMITED :
TO APPROXIMATELY \$248 MILLION :
PREVIOUSLY ON DEPOSIT AT APPROXIMATELY :
57 BANK ACCOUNTS, AS DESCRIBED IN :
SCHEDULE A, AND ALL PROPERTY TRACEABLE :
THERETO, :
Defendants *in rem.*

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MOTION TO DISMISS COMPLAINT FOR IMPROPER VENUE PURSUANT
TO FED R. CIV. P., RULE 12(b)(3) AND SUPPLEMENTAL RULE G(8)(b) (ON
BEHALF OF HIJAZI GENERAL TRADING, LLC, DEFENDANT IN REM

HIJAZI GENERAL TRADING, LLC, by Joseph J. D'Erasmo and Deane A. Shure,

JOSEPH J. D'ERASMO
&
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its attorneys, files this Motion to Dismiss the Civil Forfeiture Complaint filed against its property and states in support of this Motion as follows:

1. As shown by paragraph 19 in Exhibit A, Hijazi General Trading, LLC is located in Burtonsville, Maryland, and the account claimed to be subject to forfeiture is an account held in its name at the Sandy Spring National Bank in Columbia, Maryland. It is also an indisputable fact that Hijazi General Trading, LLC is a Maryland Limited Liability Corporation.

2. There are no facts stated in the Verified Complaint that allege that Hijazi General Trading has any accounts located in New York, has sold used cars in New York or has done any business in New York, of any nature whatsoever. None of its property is found there, nor has it been brought there.

3. The two directly relevant venue statutes which could be said to govern this forfeiture proceeding are 28 U.S.C.S. § 1395 and 28 U.S.C. § 1355. The former states, in essence, that a civil forfeiture proceeding may be brought in the district where such property is found (as opposed to a civil penalty or fine which may be recovered where it accrues; not relevant here) or where the property is brought.

4. 28 U.S.C. § 1355 provides that a forfeiture proceeding may be brought in “the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred.” This is the statute on which the Government relies to claim venue, generally, as to all Defendants and Defendants *in rem* in this action. (See Verified Complaint, paragraph 11.)

However, no facts are alleged in the Verified Complaint specifically as to Hijazi General Trading, LLC, which detail what, if any, acts or omissions have been carried out by Hijazi in the district of New York, which would give rise to any forfeiture of its property there.

Under these circumstances, the Defendant *in rem*, Hajazi General Trading, LLC, urges that this Court dismiss the Verified Complaint on the basis of improper venue, and the consequent violation of due process as to Hijazi General Trading pursuant to FED R. CIV. P. 12(b)(3) and Supplemental Rule G(8)(b) for asset forfeiture actions.

Respectfully submitted,

/s/
JOSEPH J. D'ERASMO

/s/
DEANE A. SHURE
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Attorneys for Hijazi General Trading, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of April, 2012 I electronically filed the foregoing document with the Clerk of Court using the ECF system which will send notice of the filing to all filing parties of record. I further certify that I will mail the foregoing document to the following non-filing users:

Deane A. Shure, Esq.
103 North Adams Street
Rockville, Md. 20850

Warner F. Young, III
11350 Random Hills Road, #700
Fairfax, Va.

/s/
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